

### § 1100.3

### 45 CFR Ch. XI (10–1–07 Edition)

and the Humanities Act of 1965, 20 U.S.C. 951 *et seq.* The Foundation is composed of the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum and Library Services, and the Federal Council on the Arts and the Humanities. The Institute of Museum and Library Services became a part of the National Foundation on the Arts and the Humanities pursuant to Pub. L. 97-394 (December 30, 1982) and Pub. L. 98-306 (May 31, 1984). Each Endowment is headed by a Chairman and has an advisory national council composed of 26 presidential appointees. The Institute of Museum and Library Services is headed by a Director and has a National Museum Services Board composed of 15 presidential appointees. The Federal Council on the Arts and the Humanities, comprised of Executive branch officials and appointees of the legislative branch, is authorized to make agreements to indemnify against loss or damage for certain exhibitions and advise on arts and humanities matters.

#### **§ 1100.3 Availability of information to the public.**

(a) All inquiries, or requests should be addressed to the appropriate agency. Descriptive brochures of the organization, programs, and function of each agency are available upon request. Inquiries involving work of the National Endowment for the Arts should be addressed to the National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the National Endowment for the Arts is (202) 682-5400. Requests or inquiries involving the National Endowment for the Humanities should be addressed to the National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the National Endowment for the Humanities is (202) 786-0310. Requests or inquiries involving the Institute of Museum and Library Services should be addressed to the Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. The telephone number of the Institute of Museum and Library Services is (202) 786-0536.

(b) The head of each agency is responsible for the effective administration of the Freedom of Information Act. The head of each agency pursuant to this responsibility hereby directs that every effort be expended to facilitate service to the public with respect to the obtaining of information and records.

(c) Requests for access to records of the National Endowment for the Arts, the National Endowment for the Humanities, or the Institute of Museum and Library Services may be filed by mail with the General Counsel of the National Endowment for the Arts, the Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum and Library Services, as is appropriate. Requests for access to records of the Federal Council on the Arts and the Humanities should be directed to the attention of the National Endowment for the Humanities. All requests should reasonably describe the record or records sought. Requests submitted should be clearly identified as being made pursuant to the Freedom of Information Act.

#### **§ 1100.4 Current index.**

Each agency shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated and which is required to be made available pursuant to 5 U.S.C. 552(a) (1) and (2). Publication and distribution of such indices has been determined by the Foundation to be unnecessary and impracticable. The indices will be provided upon request at a cost not to exceed the direct cost of the duplication.

#### **§ 1100.5 Agency procedures for handling requests for documents.**

(a) Upon receiving a request for documents in accordance with the rules of this part, the General Counsel of the National Endowment for the Arts, Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum and Library Services, as is appropriate, shall determine whether or not

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the request shall be granted in whole or in part.

(1) The determination shall be made within ten (10) days (excepting Saturdays, Sundays, and legal holidays) after receipt of such request.

(2) The requestor shall be notified of the determination and the reasons that support it. When a request is denied in whole or in part, the requestor, will be notified of his or her rights to appeal the determination to the head of the agency.

(b)(1) Any party whose request for documents has been denied in whole or in part may file an appeal no later than ten (10) working days following receipt of the notification of denial. Appeals must be addressed to the Chairman, National Endowment for the Arts, Washington, DC 20506, the Chairman, National Endowment for the Humanities, Washington, DC 20506, or the Director Institute of Museum and Library Services, Washington, DC 20506, as is appropriate.

(2) The head of the agency or his delegatee shall make a determination with respect to the appeal within twenty (20) days (excepting Saturdays, Sundays, and legal holidays) after the agency has received the appeal, except as provided in paragraph (c) of this section. If, on appeal, the denial is upheld either in whole or in part, the head of the agency shall notify the party submitting the appeal of the judicial review provisions of 5 U.S.C. 552(a)(4)(B).

(c) In unusual circumstances, the time limits prescribed to determine a request for documents with respect to initial actions or actions on appeal may be extended by written notice from the General Counsel of the National Endowment for the Arts, the Deputy Chairman of the National Endowment for the Humanities, or the Public Affairs Officer of the Institute of Museum and Library Services as is appropriate. The notice shall describe the reason for the extension and the date on which the determination is expected to be made. No notice shall specify a date that would result in an extension of more than ten (10) days (excepting Saturdays, Sundays, and legal holidays). As is used in this paragraph, *unusual circumstances* means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having a substantial subject-matter interest in the request.

### § 1100.6 Fees.

(a) *Categories of fees.* Fees will be charged according to the Category of the FOIA request.

(1) *Commercial use requests.* The agency will assess charges to recover the full direct cost of searching for, reviewing, and duplicating the requested document. The agency may recover the cost of searching for and reviewing records even if there is ultimately no disclosure.

(2) *Requests from educational and non-commercial scientific institutions.* The agency will charge for duplication costs. To qualify for this category the requestor must show: (i) That requested records are being sought under the auspices of a qualified institution as defined in §1100.1 (e) or (f) of this part; (ii) the records are not sought for commercial use; and (iii) the records are being sought in furtherance of scholarly or scientific research of the institution.

(3) *Requests by representatives of the news media.* The agency will charge duplication costs for the requests in this category.

(4) *All other requests.* All other requests shall be charged fees which, recover the full reasonable cost for searching for and duplicating the requested records.

(b) *General fee schedule.* The agency shall use the most efficient and least costly method to comply with requests for documents made under the FOIA. The agency will charge fees to recover all allowable direct costs incurred. The